

## **WPC Comments on NSR Issues**

### **DNR NSR Retooling Group**

- It is the experience of the paper industry in Wisconsin and the U.S. that the NSR program – current DNR, prior EPA – is a major problem:
  - It is unclear, unnecessarily confusing, far too subjective, and, overall, too complicated.
  - It seriously hampers ability to compete with global competitors
  - It creates significant disincentives to modernize plant and equipment
  - It often results in nothing more than an expensive paperwork permitting exercise
  - It has the practical effect of frustrating projects that save energy and/or improve environment
  - The Paper Council has submitted examples of these problems to DNR previously
- NSR needs to be fixed. But it must be assessed realistically within the context of the full spectrum of regulatory programs – criteria pollutant-related programs, hazardous substance regulations, permitting and other requirements.
- If the retooling process is going to work, everyone is going to need to roll up their sleeves, and slog through every detail of the changes to, first, understand what EPA put on the table and, second, figure out how we want to incorporate these changes into Wisconsin regulations. Abstract policy arguments aren't useful. We are concerned that this effort is not off to a good start in this regard. The Paper Council has a task force that has already met three times and reviewed the EPA rules line-by-line. We need to do that here.
- Regarding the EPA changes that took effect on March 3<sup>rd</sup>, we support adopting the changes as proposed by EPA.
  - Within this framework, our top priority – as indicated at the first meeting of this group – is changing from the actual-to-potential test to the actual-to-actual test for industrial sources. The actual-to-potential test is unrealistic – and everyone knows it. It creates phantom emission increases where they don't exist and subjects environmentally insignificant projects to cumbersome and expensive permitting.
  - Our next priority is obtaining a realistic baseline. The EPA regulation provides a baseline that accommodates realistic

business cycles. It is longer than the utility baseline because there is more variability in individual business cycles than in utility cycles. In the paper industry, we have been facing very difficult economic conditions for the past 6-8 years. The 24/10 approach would recognize and accommodate this. Shortening the baseline has three objectionable effects: (1) it would give an advantage to companies that have been increasing emissions compared to companies that have been decreasing emissions, (2) it would penalize companies experiencing an economic downturn – virtually all manufacturers – by locking them in at low levels, and (3) it would make it more attractive for companies to invest and expand elsewhere because Wisconsin regulations would be less flexible (than the federal law).

- While we are strong supporters of the Clean Unit and PAL concepts, the EPA approach limits their usefulness for large, complex manufacturing facilities. However, we fully anticipate that both provisions will be used selectively within the paper industry. Further limitations on the use of these two provisions would significantly restrict their use.
- The PCP provisions are relatively straight-forward and should not be difficult to adopt.
- To briefly respond to DNR's comments from the last meeting:
  - Regarding emissions in non-attainment areas – and we assume the department is speaking of ozone non-attainment areas – there is a comprehensive regulatory program in existence to bring these areas into compliance. By most measures this program is working. EPA anticipates that the vast majority of non-attainment areas will achieve compliance. To the extent that additional regulatory steps are needed in some areas, these steps should be taken on a limited, geographically targeted basis.
  - Regarding the protection of air quality increments, while we agree that future development opportunities should be protected, we are concerned that these efforts could favor new sources over existing sources. In any event, the current PSD program already has a goal of protecting increments.
  - Regarding local impacts, we are not sure what the specific concern is, but we agree that ambient air quality standards must be met.
  - Regarding administrative burden, we strongly support reducing the administrative burden of the NSR program.
  - Regarding the department's comments on specific rule issues, we have a difference of opinion on virtually all of them. Our differences need to be discussed in detail and resolved.
- There are two additional issues that need to be addressed:

- Wisconsin statutory language relating to state-federal consistency in the definition of “major modification” must be addressed. We’ll let the lawyers fight this one out, but it must be resolved.
  - Changes to the State’s minor source permitting program must be made, consistent with the major source changes.
- We have been at this process for most of the summer and have nothing of substance to show for it. We suggest that DNR staff draft the EPA changes into Wisconsin rule format and we then start a detailed review at page 1, line 1.